

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TONY EPPS, #450886,

Plaintiff,

v.

UNIVERSITY OF TEXAS MEDICAL
BRANCH, et al.,

Defendants.

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Case No. 6:20-cv-407-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Tony Epps, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636.

Before the Court is Plaintiff's motion for a writ of mandamus. Docket No. 36. On June 14, 2022, Judge Love issued a Report and Recommendation recommending that the Court deny Plaintiff's motion. Docket No. 37. Plaintiff filed timely objections. Docket No. 39.


Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other*

grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff's objections do not address the specific legal findings and conclusions in the Report. He does not address the fact that the Court's file does not include his alleged June 25, 2020 motion for temporary restraining order—the motion for which he is seeking to mandamus the Court. Instead, he asserts that he sent a premature notice of interlocutory appeal to the Fifth Circuit on August 28, 2022—a date that has not yet occurred. Plaintiff did file a Federal Rule of Civil Procedure 72(a) appeal of a non-dispositive order on August 24, 2020. Docket No. 10. The Court overruled Plaintiff's objections to the non-dispositive order directing him to amend his complaint. Docket No. 12. Plaintiff's Rule 72(a) is therefore no longer pending before the Court.

Having reviewed the record in this case, the Magistrate Judge's Report, and Plaintiff's objections de novo, the Court concludes that the objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 37) as the opinion of the District Court. The Court hereby **DENIES** Plaintiff's motion for a writ of mandamus (Docket No. 36).

So **ORDERED** and **SIGNED** this **9th** day of **July, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE